

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 20th day of August, 2002, between the Department of Housing and Urban Development ("HUD") and Austin Title Company. This Settlement Agreement applies to Austin Title Company, its officers, directors, employees, successors, and assignees, and to all subsidiaries of Austin Title Company and their officers, directors, employees, successors, and assignees ("Austin Title"). HUD and Austin Title together shall be referred to herein as the "Parties."

Whereas, Section 8(a) of the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2607(a), requires that "[n]o person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.";

Whereas, HUD instituted an inquiry and investigation into certain practices of Austin Title and other title companies relating to their provision of "virtual tours" of residential real property offered for sale in Texas to real estate brokers or real estate agents at no cost to the brokers or agents for the period commencing on May 1, 2000, through and including the date of this agreement;

Whereas, the term "virtual tour" refers to the internet-based service by which any person can access a website that displays photographs of residential real property offered for sale and that the person may be able to obtain a panoramic view of the interior and/or exterior of the property;

Whereas, Austin Title has provided HUD with information on both the volume of virtual tours Austin Title created and the costs associated with creating virtual tours;

Whereas, as a result of its inquiry and investigation, HUD asserts that by providing virtual tours, Austin Title has provided a "thing of value" in exchange for the referral of business in violation of Section 8(a) of RESPA;

Whereas, Austin Title denies that its provision of "virtual tours" as described above violates Section 8(a) of RESPA;

Whereas, the Parties desire to resolve any and all RESPA issues arising from the production of "virtual tours";

Whereas, this Settlement Agreement covers only those practices of Austin Title identified herein, known to and alleged by HUD regarding the provision of virtual tours in the State of Texas;

Whereas, by entering into this Settlement Agreement, HUD is not making a general approval of "virtual tours" or any other ancillary business;

Whereas, this Settlement Agreement shall not constitute an admission of liability or fault on the part of Austin Title;

Whereas, the Parties desire to avoid further expenses and proceedings, and to reach a mutually satisfactory resolution of this matter by entering into this Settlement Agreement;

NOW, THEREFORE, in consideration of the mutual promises and representations set forth herein, and in further consideration for HUD's reliance upon the substantial accuracy and good faith of Austin Title's representations and submissions concerning the number of virtual tours provided by Austin Title and the cost to Austin Title of providing such virtual tours, the Parties hereby agree and intend to be legally bound by the following:

(1) Austin Title agrees to continue to comply fully with all provisions of RESPA, including Section 8(a), and with all of the provisions of Paragraph (2) of this Settlement Agreement.

(2) Whenever Austin Title provides a virtual tour to or for the benefit of any person in a position to refer title insurance business with respect to residential real property located within the State of Texas, Austin Title will provide such virtual tour only in accordance with the provisions of Paragraph (2) of this Settlement Agreement.

(A) Before providing a virtual tour, Austin Title shall charge and collect a fee for any virtual tour that it provides to a person in a position to refer residential title insurance business. Austin Title agrees not to provide a virtual tour for free. The fee shall not be less than the actual cost to Austin Title of providing the virtual tour. Any such fee collected that equals or exceeds the actual cost of the virtual tour to Austin Title shall be deemed reasonable.

(B) The fee charged and collected for any virtual tour shall be uniform for all purchasers of the virtual tour, and the virtual tour service shall be available, to the extent allowable by law, to any purchaser who wishes to avail himself or herself of the service.

(C) Austin Title shall notify, in writing or by electronic mail, each and every real estate broker and real estate agent with whom it does business with that there is no agreement, understanding or requirement to refer business to Austin Title, if Austin Title provides such broker or agent with a virtual tour.

(D) Austin Title will not refuse to provide a virtual tour to any person because the person does not refer title business to Austin Title.

(3) Within twenty (20) business days of the execution of this Settlement Agreement, Austin Title shall make a payment of \$17,875.00, payable to the United States Treasury.

(4) Austin Title waives, releases, and remits any and all claims directly or indirectly against HUD or HUD employees whether known or unknown, with respect to this matter. HUD releases any and all claims as identified herein and known at the time of execution of this Settlement Agreement that might be made with regard to this matter against Austin Title.

(5) Based on Austin Title's compliance with the terms of this Settlement Agreement, HUD will terminate its related investigation and take no further enforcement action against Austin Title under Section 8 of RESPA as to this matter.

(6) HUD intends to apply and interpret the requirements of Paragraph (2) of this Settlement Agreement and Section 8 of RESPA uniformly for all title companies providing title services in the State of Texas.


(7) Each of the Parties shall bear its own attorneys' fees and costs.

(8) Austin Title agrees to fully cooperate with HUD in its ongoing investigation of violations of RESPA with regard to virtual tours in the state of Texas.

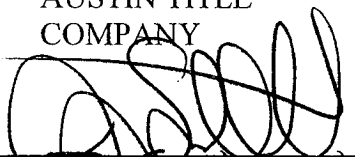
(9) This Settlement Agreement is a binding and final agreement that applies to and binds each of the persons or entities identified in the first paragraph of this Settlement Agreement. Provided, however, that Austin Title shall be entitled to relief from the provisions of Paragraph 2 in order to engage in conduct permitted by RESPA in the event that section 8 of RESPA is amended or in the event that the provisions of Regulation X interpreting and applying section 8 of RESPA are amended.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first stated above.

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

By: 
Name: John C. Weicher
Title: Assistant Secretary for
Housing-Federal Housing
Commissioner

AUSTIN TITLE
COMPANY

By: 
Name: Day Southworth
Title: President